

Bond Case Briefs

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BONDS - COLORADO

UMB Bank, N.A. v. Landmark Towers Association, Inc.

Supreme Court of Colorado - December 11, 2017 - P.3d - 2017 WL 6329750 - 2017 CO 107

Homeowners' association, which represented condominium owners whose properties were included in special district, brought action against district and investors to invalidate district's creation, to invalidate approval of bonds and taxes, and to recover taxes paid to district.

Following a bench trial, the District Court ordered a partial refund of taxes paid and enjoined district from assessing future taxes on owners in order to pay its obligations under the bonds. All parties appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. District and investors sought certiorari review.

The Supreme Court held that:

- The ten-day period specified in statute on filing a statement of intent to contest an election applied to association's challenge;
- The ten-day period in which association could file a statement of intent to contest the election that created district began on the date on which the election results were certified; and
- Statute specifying the ten-day period in which to file a statement of intent to contest an election is a non-claim statute, which precludes application of the doctrine of equitable tolling.

The ten-day period in which homeowners' association, which represented condominium owners whose properties were included in special district, could file a statement of intent to contest the election that created the district began on the date on which the election results were certified.

Statute that requires that a written statement of the intention to contest an election be filed within ten days after the completion of the official survey of returns is a "non-claim statute," which prohibits absolutely the initiation of litigation after a specific period of time and which precludes application of the doctrine of equitable tolling.

Challenge by homeowners' association, which represented condominium owners whose properties were included in special district, to district's creation was a challenge to the means by which results of the election creating the district were obtained, rather than a challenge to the substance of a ballot issue, and thus ten-day period specified in statute on filing a statement of intent to contest an election applied to association's challenge, where association's contentions were that illegal voters participated in the election and that eligible electors did not receive notice of the election.